



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers
Community Development Agency Director

Brian Foss
Planning Director

**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo**

MEETING DATE: October 11, 2016

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: Public hearing to consider the appeal filed by James Powell and Carol Fuller Powell of the Planning Commission's actions on the Byers Warehouse Project (AM14-001, DP15-006, MGT15-020, MGT16-001, MI15-020, EIS15-019) pertaining to the construction of a warehouse and associated improvements. LOCATION: 11773 Slow Poke Lane (APN 09-320-25), Grass Valley, CA 95945. (District III)

RECOMMENDATION: Adopt the attached Resolution (Attachment 6) to deny the appeal, and uphold the decision of the Planning Commission to adopt the Mitigated Negative Declaration (EIS15-019) and approve the Amended Map (AM14-001), Development Permit (DP15-006), Biological Management Plan (MGT15-020), Floodplain Management Plan (MGT16-001), and Petition for Exceptions to Road Standards (MI15-020) for the Byers Warehouse Project, including findings 1-7 as noted in the Resolution, subject to the conditions of approval shown in Exhibit "A" to the Resolution.

FUNDING: This hearing will have no impact on the General Fund. This will impact the Planning Department's FY 16/17 Budget for staff time.

ATTACHMENTS:

1. Appeal to the Board of Supervisors
2. Public Notice and Vicinity Map
3. Site Plan and Lighting/Landscaping Plan
4. July 28, 2015 Planning Commission Staff Report
 - 4a. Initial Study/Mitigated Negative Declaration
 - 4b. Parcel Map with proposed changes
 - 4c. Depictions of proposed warehouse building
 - 4d. Biological Resources Management Plan
 - 4e. Floodplain Management Plan
5. July 28, 2015, Planning Commission Meeting Minutes
6. Proposed Resolution to Deny the Appeal and Exhibit "A" Conditions of Approval

BACKGROUND: On July 28, 2016, the Nevada County Planning Commission held a public hearing on the Byers Warehouse Project (“Project”), located at 11773 Slow Poke Lane, Grass Valley, off East Bennett Road. The Project adjoins Empire Mine State Historic Park to the south and west, and South Fork Wolf Creek to the north, approximately 0.5 mile east of the City of Grass Valley. Properties to the north, east, and southeast are zoned Light Industrial (M1) but are occupied by residential uses. The project consists of the construction of an 8,750 square-foot (sf) warehouse, a 4,500 sf parking and materials storage overflow area, and parking, drainage, lighting, landscaping, and fire protection improvements on an existing developed lot used by the Byers business for equipment and materials storage and office purposes. The purpose of the new warehouse building is to provide protected storage for materials that are currently being stored outside. To facilitate this project, the following additional permits and approvals are needed: a Zoning Map Amendment to remove the SP zoning district overlay on the property and its requirements for floodplain setbacks and public water supply; a Map Amendment to resolve inaccuracies on the existing parcel map; a Biological Resources Management Plan to reduce impacts from encroachment into the 100-foot non-disturbance buffer to Little Wolf Creek; a Floodplain Management Plan for encroachment within approximately 40 feet of the 100-year floodplain; and a Petition for Exception to Road Standards to reduce right-of-way width standards from 50 to 20 feet and roadway width standards from 20 to 15 feet, and to eliminate the fuel modification requirement on the west side of Slow Poke Lane. For an expanded discussion on the specific details of the project, refer to the Planning Commission Staff Report in Attachment 4.

During the Planning Commission meeting, neighboring property owner James Powell and the Planning Commission raised a number of issues, including whether employee vehicles parked offsite and whether road improvements were needed on Slow Poke Lane. After considering the issues, the Planning Commission voted 4-1 to adopt a Mitigated Negative Declaration (MND) and approve the Biological Management Plan (MGT15-020) and Floodplain Management Plan (MGT16-001), and 5-0 to approve the Map Amendment (AM14-001) and Development Permit (DP15-006) and to recommend approval of the proposed Zoning Map Amendment (Z16-001) to the Board of Supervisors.

On August 5, 2016, neighboring property owners James Powell and Carol Fuller Powell filed their appeal concerning the actions taken by the Planning Commission on the project. On September 13, 2016, the Board of Supervisors found that the appeal had standing and was submitted in a timely manner, and consequently scheduled a public hearing to consider the appeal on October 11, 2016 at 1:30 p.m. Under Land Use and Development Code Sec. L-II 5.12, the appeal hearing is to be considered a “full hearing de novo on the project, without limitation as to the issues that may be raised, or as to the evidence that may be received.” It is within the purview of the Board to approve, deny, or modify the project, including the authority to change, delete or add to the conditions for approval.

This staff report provides a brief background of the project, a description of the project, the issues identified in the appeal, and staff’s responses to the issues raised in the appeal.

THE APPEAL:

The appeal raises two primary issues, the first with regard to road width and the second with regard to offsite parking. The appeal issues are summarized below (shown in bold italic text) and followed by staff’s responses. For the complete text of the appeal, see Attachment 1.

1. Existing road width (15 to 16 feet) on Slow Poke Lane is inadequate to allow two cars to pass without pulling onto private property, and the narrow creek crossing should be widened to prevent debris buildup and flooding. Existing traffic from the Byers site and future traffic generated by the project warrants widening Slow Poke Lane to accommodate the growing business.

The project includes a Petition for Exception (MI15-020) to the Road Standards set forth in LUDC Sec. L-XVII 3.4 to reduce the Fire Safe Road Standard right-of-way width standards from 50 to 20 feet and reduce roadway width standards from 20 to 15 feet. The current easement on Slow Poke Lane is 20 feet wide. Residential properties along Slow Poke are currently built out, so additional easement width is not feasible along this roadway. The applicant approached the neighbors with a request for additional easement width, and the neighbors did not agree to the request. In addition to the inability to acquire additional easement width, the applicant has already improved Slow Poke Lane to the maximum extent possible within the limits of the easement. With existing drainage on both sides of the road and a 15- to 16-foot roadway surface, the road cannot be extended further without encroaching onto private property to the east and State property to the west. At the South Fork Wolf Creek crossing, widening the crossing would be infeasible for the same reasons and would result in additional environmental impacts within the riparian zone.

The warehouse project would not necessarily generate or even accommodate substantial new growth; the warehouse is proposed to house materials that are already currently stored outside on the project site and would not increase the amount of materials that could be stored. The Nevada County Fire Marshal's Office supports the Petition with two turnouts on Slow Poke Lane, one on the applicant's property just south of South Fork Wolf Creek and the other at an already widened portion of Lava Rock Avenue within the existing easement, which is wider at that point.

The appellant has indicated that the crossing over South Fork Wolf Creek becomes clogged with woody debris in the winter, resulting in flooding of the crossing. Maintenance of the culvert is a civil issue that is more appropriately addressed by all easement holders who use the crossing, including the appellant. As previously discussed there is also not a clear nexus between widening the culvert and the warehouse construction, which is not anticipated to substantially increase traffic to the site.

In summary, staff does not recommend any modifications to the approval of the Petition because easement acquisition is infeasible due to existing residential development, the roadway has been constructed to its fullest extent within the existing easement, construction of the proposed warehouse structure will not generate a substantial amount of additional traffic, and the Nevada County Public Works and the Fire Marshal's Office staff support the Petition for Exceptions.

2. Empire Mine State Park land to the west of Slow Poke Lane is used for employee vehicle parking. All business-related parking should occur onsite.

The appellant has provided information in the appeal application indicating that employee parking occurs on Empire Mine State Park property to the west of Slow Poke Lane, across from the project entrance. After the Planning Commission hearing, the applicant's representative surveyed the property and found that employee parking is occurring on State Park property as the appellant has asserted. Nonetheless, staff does not recommend any changes to the parking conditions because the project meets and exceeds County standards for the proposed uses, with a total of 30 required parking stalls and 15

overflow stalls. The County's role as a planning agency is to ensure that adequate parking is provided onsite, and the applicant has demonstrated that parking standards can be met onsite. Parking that occurs offsite is more appropriately addressed by the affected property owner. Staff therefore does not recommend any changes to the conditions with regard to this issue.

APPEAL CONCLUSION:

As reflected in the meeting minutes and the Planning Commission staff report, the road width issue associated with this appeal was considered by the Planning Commission, and the exceptions to the typical standards were granted based on infeasibility of easement acquisition and Fire Department and Public Works support of the exception. Staff's recommendation with regard to the parking conditions remains the same, which is to require the County parking standard (30 stalls) with the overflow offered by the applicant (15 stalls). Parking that occurs offsite on private or public property is more appropriately addressed by the affected property owner rather than being placed under the County's jurisdiction for enforcement.

The Initial Study was reviewed by the appropriate state and local agencies as well as the public. All of the project concerns have been amply considered, and staff is recommending that the Board deny the appeal and uphold the actions taken by the Planning Commission on July 28, 2016.

Item Initiated by: Jessica Hankins, Senior Planner

Approved by: Brian Foss, Planning Director